

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

T & H BAIL BONDS, INC. and  
TED PRIDGEN

Plaintiff,

v.

LOCAL 199 LABORERS'  
INTERNATIONAL UNION OF  
NORTH AMERICA, BILLY CARTER  
and JAMES ROCHESTER

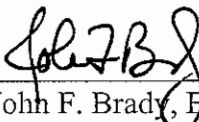
C.A. No.: 04-1290-SLR

NOTICE OF MOTION

TO: Joseph J. Rhoades, Esquire  
1225 King Street, Suite 1200  
P.O. Box 874  
Wilmington, Delaware 19899-0874

FILED  
CLERK U.S. DISTRICT COURT  
DISTRICT OF DELAWARE  
2007 OCT 17 PM 3:02

**PLEASE TAKE NOTICE** that the enclosed Motion to Re-Open is herewith  
presented to the Court for consideration and to be heard at the Court's convenience.

  
\_\_\_\_\_  
John F. Brady, Esquire  
Bar ID No.: 2977  
Brady, Richardson, Beauregard & Chasanov, LLC  
10 E. Pine Street  
Georgetown, Delaware 19947  
302-856-7361  
Attorney for Plaintiffs

Dated: October 11, 2007

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

T & H BAIL BONDS, INC. and	:	
TED PRIDGEN	:	C.A. No.: 04-1290-SLR
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Plaintiff,	:	
	:	
v.	:	
	:	
LOCAL 199 LABORERS'	:	
INTERNATIONAL UNION OF	:	
NORTH AMERICA, BILLY CARTER	:	
and JAMES ROCHESTER	:	
	:	
Defendant.	:	

MOTION TO RE-OPEN

NOW COMES, the Plaintiff, T & H Bail Bonds and Ted Pridgen by and through counsel John F. Brady, Esquire of the law firm of Brady, Richardson, Beauregard & Chasanov, LLC, 10 E. Pine Street, Georgetown, Delaware 19947 and moves this Honorable Court to re-open the above captioned matter and in support thereof asserts as follows:

1. The above captioned matter was stayed pending the National Labor Relations Board complaint and hearing.
2. National Labor and Relations Board (Attachment "1") filed September 23, 2004 was regarding the current law suit that was originally filed in the Court of Chancery before it was removed to the United States District Court for the District of Delaware.
3. The charging party in this case, the Local 199 Laborers' International Union of North America, AFLCIO, withdrew the charge March 13, 2006.

4. Due to neglect or inadvertence, a copy of that order was never communicated to the United States District Court which would have permitted a Pre-Trial conference to be held and mediation on this case.

5. Pursuant to case law on good cause shown, the Plaintiffs respectfully request that the matter be re-opened, and that the matter be assigned for a Pre-Trial conference, mediation and that a trial date set.

6. In November of 2004, a Fact Finding was held by the NLRB which Plaintiff and his attorney participated in at the NLRB Region 4 office on Chestnut Street, Philadelphia, Pennsylvania.

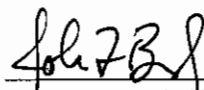
7. District Court was not notified that the NLRB complaint had been withdrawn.

8. The Defendant will not suffer unreasonable prejudice by excusing the delay. *See Pioneer Investment Services v. Brunswick Assoc. Ltd. Partnership*, 507 U.S. 380, 395, 113 S. Ct. 1489 (1993) (recognizing the danger of prejudice to the non-movant as one of four necessary factors in determining the presence of excusable neglect).

9. The delay was the result of a mistake by Counsel for the Plaintiff, having sent the wrong documents to the Court in making a good faith effort to comply with the Rules of the Court, making dismissal on the merits too severe of a punishment to the Plaintiff. *See, e.g., Augusta Fiberglass Coatings, Inc. v. Fodor Contracting Corp.*, 843 F.2d 808, 811 (C. A. 4th, 1990)

10. This Motion to Re-Open has been filed within 20 days of the dismissal, which is an insignificant delay as a matter of law. *See In re Cendant Corp. PRIDES Litigation*, 235 F.3d 176, 183 n.8 (3d Cir. 2000).

11. The Plaintiff has not exhibited a pattern of contumacious behavior, nor does any evidence exist suggesting bad faith on the part of the Plaintiff. *See Pioneer Investment Services v. Brunswick Assoc. Ltd. Partnership*, 507 U.S. 380, 395, 113 S. Ct. 1489 (1993) (recognizing bad faith on the part of the movant as one of four necessary factors in determining the presence of excusable neglect).



John F. Brady, Esquire

Bar ID No.: 2977

Brady, Richardson, Beauregard & Chasanov, LLC

10 E. Pine Street

Georgetown, Delaware 19947

302-856-7361

Attorney for Plaintiffs

Dated: October 11, 2007

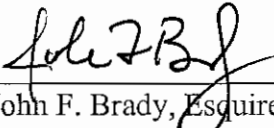
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LOCAL 199 LABORERS'	:	
INTERNATIONAL UNION OF	:	
NORTH AMERICA, BILLY CARTER	:	
and JAMES ROCHESTER	:	

CERTIFICATE OF SERVICE

I, John F. Brady, Esquire, certify that I caused to be placed in the U.S. Mail, postage prepaid a copy of the attached Motion to Re-Open on this 12<sup>th</sup> day of October, 2007 to the following person(s):

Joseph J. Rhoades, Esquire  
1225 King Street, Suite 1200  
P.O. Box 874  
Wilmington, Delaware 19899-0874

  
\_\_\_\_\_  
John F. Brady, Esquire  
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